



**ఆంధ్రప్రదేశ్ రాజపత్రము**  
**THE ANDHRA PRADESH GAZETTE**  
**PUBLISHED BY AUTHORITY**

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AMARAVATI, WEDNESDAY, AUGUST 16, 2023

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**PART II - MISCELLANEOUS NOTIFICATIONS OF INTEREST TO THE PUBLIC**

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**NOTIFICATIONS BY HEADS OF DEPARTMENTS Etc.,**

**ADDITIONAL SENIOR CIVIL JUDGE'S COURT  
TENALI.**

Monday, this the 19<sup>th</sup> day of June, 2023

Insolvency Petition No. 10 of 2022

**Between:**

Koppanati Naga Vara Prasada Rao, S/o.Satyanarayana, aged about 57 years, Hindu,  
R/o.D.No.7-15, Duggirala village and Mandal, Guntur District.

...Petitioner

And

Kaluva Venkateswara Rao, S/o.Venkata Satya Narayana, aged about 51 years,  
Hindu, Employee, r/o.D.No.3-129/1,Duggirala village and Mandal, Guntur District.

...Respondent

This Insolvency Petition is coming on 14.06.2023 before me for hearing in the presence of Sri P.Ravindra Babu, Advocate for Petitioner and of Sri J.Siva Rama Kumar, Advocate for Respondent and upon hearing and considering the material on record, having stood over for consideration till this day, this Court made the following:

**:: O R D E R ::**

1. This insolvency petition is filed under Section 10 of Provincial Insolvency Act, 1920 to declare the petitioner as insolvent ; to direct the official receiver to administer and to take possession of B, C and D schedule properties if any and distribute the proceeds realized thereunder among all the creditor ; to award costs and for other reliefs.

2. The case of the petitioner in a nutshell is as follows:

He is permanent resident of Duggirala village of Guntur District and previously he did cultivation from taking lands from the ryots and also did the commission agent business in turmeric and he invested amounts and borrowed amounts of Rs.2,00,000/- from the respondent by executing the promissory note. He started cultivation in the year 2010 and sustained heavy loss due to scarcity of water and weather conditions and respondent pressurized the petitioner for discharging the debt and he also paid interest @ 60% pa.a to the respondent for some time though the rate of interest mentioned in the promissory note is 12% per annum.. For the last four years the petitioner has been suffering with ill health and he is diabetic patient and he is unable to do cultivation. He has no movable and immovable properties except shown in the schedule. The respondent also filed the suit in O.S.19/2017 on the file of Learned Principal Junior Civil Judge Court, Tenali against the petitioner for a sum of Rs.3,44,000/-. The respondent also filed E.P.37/2019 for his arrest and detention orders were passed on 14.02.2020. the petitioner is not in a position to pay the debts and as such this petition is filed.

3. Respondent filed counter and denied material allegations are all false while admitting the passing of decree and filing of EP and had inter-alia contended as follows :

The petitioner borrowed an amount of Rs.2,00,000/- from him and executed promissory note in his favour and he filed a suit in O.S.19/2017 on the file of Learned Principal Junior Civil Judge Court, Tenali and the petitioner contested the suit. In his evidence as DW1, he clearly admitted that he is running Turmeric factory and got sufficient income to export the turmeric powder. The present petition is filed by suppressing the facts, while warrant of arrest is pending against him. His intention is to avoid the payment of EP amount by suppressing his business and assets. The petitioner is also having a building in Duggirala village and got sufficient means to discharge the same and therefore, this petition is devoid of merits and liable for dismissal.

4. During the trial, the petitioner was examined as PW1 and third party was examined as PW2. The petitioner and his witnesses deposed about the loss sustained to the PW1 in his business and also his incapability to do cultivation. The petitioner further deposed that he is having no assets except the assets mentioned in schedule B, C, D. No oral or documentary evidence adduced by the respondent.

5. Heard. Perused the material available on record.

6. The learned counsel for the petitioner contends that the evidence of petitioner and his witnesses clearly shows that the petitioner sustained loss in the business and

he was unable to pay the debts as the same are more when compared to his assets.

Per contra, the learned counsel for respondent vehemently contended that the petitioner has capacity to repay the debt amount as he is having movable and immovable properties in his name but he prayed for dismissal of the petition.

7. Now the point for determination is:

*Whether the petitioner can be adjudicated and to declare as an insolvent as prayed for?*

8. **POINT :**

I) Sec.10 of the Provincial Insolvency Act specifies the conditions on which the debtor may present petition. A debtor shall be entitled to present in Insolvency Petition only:-

1. When he is unable to pay his debts; or

2. When his debts are more than his assets; or

3. When he is under arrest or imprisonment in execution of the decree of any Court for the payment of money ; or

4. When an order of attachment in execution of such a decree has been made, and is subsisting against his property.

ii) It is an admitted fact that the petitioner borrowed Rs.2,00,000/- from the respondent and he filed a suit for recovery of amount in O.S.19/2017 and the same was decreed in his favour before the learned Principal Junior Civil Judge Court, Tenali. It is also an admitted fact that the respondent filed execution petition in E.P.37/2019, warrant was issued for his detention.

iii) The contention of the petitioner is that previously he did cultivation by taking lands from the ryots in Duggirala village and also did business in export in turmeric business. He also submitted that he is suffering with diabetics and unable to do cultivation since last four years prior to filing of petition and as such, now he has

no assets to discharge the debt of the respondent. The respondent did not choose to cross examine the said witness and as such, it was treated as 'nil'. In corroboration to the evidence of PW1, he got examined the third party of the same village and he also deposed about incapacity of petitioner to pay the debt amount by stating that he has no movable and immovable properties. He was also not cross examined by the respondent. Therefore, the evidence of PW1 and 2 remained unchallenged due to non-cross examination. Of course, the petitioner did not choose to submit any piece of paper to establish that he had done commission in turmeric business. On the other hand, respondent pleaded that the petitioner admitted before the learned Principal Junior Civil Judge Court, Tenali that he has been running turmeric factory but no iota of evidence placed by them to establish said fact. It is the further case of the respondent that the petitioner is having assets in Duggirala village. But the respondent did not choose to produce any evidence to that effect. The respondent even did not choose to cross examine the PW1 and 2 with regard to the said aspect of possessing assets and running turmeric factory by the petitioner. Therefore, the unchallenged testimony of PW 1 and 2 and the schedule given by the petitioner clearly shows that he became due of Rs.2,00,000/- as described in A-schedule and no immovables as per B-schedule. The C-schedule submitted by the petitioner shows that he is having wearing apparels and cooking utensils worth of Rs.450/-. Therefore, the evidence placed by the petitioner clearly establishes that he is not in a position to pay the debt amount and his debts are more than the assets. Therefore, he is entitled for the relief of declaration that he is an insolvent.

9. In the result, the petition is allowed without costs and the petitioner is adjudicated as insolvent and he shall apply for discharge within six months. The properties of petitioner are vested with the Official Receiver. Office is directed to communicate a copy of this order to the Official Receiver. Office is directed to communicate a copy of this order and draft Gazette to the District Collector, Guntur along with draft gazette for publication in Official Gazette as per Section 30 of Provincial Insolvency Act, 1920.

(Dictated to the Personal Assistant, transcribed by her, corrected and pronounced by me in open Court, this the 19<sup>th</sup> day of June, 2023.)

**MARUPU SREEDHAR,**  
*Additional Senior Civil Judge,  
Tenali.*

**Appendix of Evidence**  
**Witnesses Examined**

*For Petitioner:*

PW1- Koppanati Naga Vara Prasada Rao  
PW2- Tamma Sankararao

*For Respondent:*

None

**Exhibits Marked**

*For Petitioner:*

Nil

*For Respondent :*

Nil

**MARUPU SREEDHAR,**  
*Additional Senior Civil Judge,  
Tenali.*

## **ADDITIONAL SENIOR CIVIL JUDGE'S COURT TENALI.**

Insolvency Petition No. 10 of 2022

Between:

Koppanati Naga Vara Prasada Rao

...Petitioner

And

Kavula Venkateswara Rao

...Respondent

### NOTICE

Notice is hereby given under Section 10 of the Provincial Insolvency Act, 1920 that the petitioner prays to adjudicate him as an insolvent and the said petition is allowed.

Dated this the 19<sup>th</sup> day of June, 2023.

**MARUPU SREEDHAR,**  
*Additional Senior Civil Judge,*  
*Tenali.*  
*[Dis.No.532.*

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